

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-18-00797-CV

In re Clyde Nubine

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

MEMORANDUM OPINION

Relator Clyde Nubine filed a petition for writ of mandamus contending that the trial court has not ruled on three matters in his underlying suit seeking judicial review of the Texas Workforce Commission’s administrative decision. Nubine states that the court has not ruled on the Commission’s plea to the jurisdiction, Nubine’s special exceptions to the Commission’s plea, and Nubine’s motion for appointment of counsel.

Mandamus may issue to compel a trial court to rule on a motion, but the relator must provide a mandamus record establishing that he requested a ruling on the pending motion. *See In re Sarkissian*, 243 S.W.3d 860, 861 (Tex. App.—Waco 2008, orig. proceeding) (noting that mandamus record failed to establish that relator requested ruling or otherwise called motion to trial court’s attention and that “mere filing of a motion with a trial court clerk does not equate to a request that the trial court rule on the motion”); *see also* Tex. R. App. P. 52.7(a) (relator must file with petition “a certified or sworn copy of every document that is material to the relator’s claim for relief and that was filed in any underlying proceeding”).

Accordingly, because Nubine failed to provide a sufficient mandamus record, his petition for writ of mandamus is denied. *See* Tex. R. App. P. 52.8(a).

Gisela D. Triana, Justice

Before Justices Goodwin, Baker, and Triana

Filed: January 24, 2019